

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE

PHIOTECHNICS, LTD.,

Plaintiff,

v.

No. \_\_\_\_\_

ECOLOGY SERVICES, INC.,  
ANDREW J. ARMBRUST,  
THOMAS O. KLETT, and  
DONALD E. HARTJE,

Defendants.

**NOTICE OF REMOVAL**

**TO: THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE**

PLEASE TAKE NOTICE that Defendants Andrew J. Armbrust ("Armbrust") and Thomas O. Klett ("Klett") by their attorneys, respectfully remove this case, pursuant to 28 U.S.C. §§ 1441 and 1446, from the Chancery Court for the State of Tennessee in and for the County of Loudon to the United States District Court for the Eastern District of Tennessee, and as grounds therefore states as follows:

1. The United States District Court for the Eastern District of Tennessee has original subject matter jurisdiction in this action pursuant to 28 U.S.C. § 1331. Removal to this Court is based upon 28 U.S.C. § 1441(a).

2. On or about December 22, 2011, Plaintiff Phiilotechnics, Ltd. ("Plaintiff" or "Phiilotechnics") instituted a civil lawsuit against Defendants Ecology Services, Inc. ("ESI") and Armbrust by filing a Verified Complaint in the Chancery Court for the State of Tennessee in and

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*Fred Chaney*  
LOUDON CO. CLERK & MASTER  
*JCR*

for the County of Loudon, and the case was assigned Case Number 11965 in the records and files of that court (“State Court Action”). The State Court Action is a suit of a wholly civil nature.

3. On December 27, 2011, Defendant ESI accepted service of the Civil Summons and Verified Complaint in the State Court Action. On December 22, 2011, Defendant Armbrust accepted service of the Civil Summons and Verified Complaint in the State Court Action.

4. In the Verified Complaint, Philotechnics sought damages under Tennessee law based upon five causes of action. Specifically, the Verified Complaint alleged: (i) that both Armbrust and ESI violated Tennessee’s codification of the Uniform Trade Secrets Act (“UTSA”), T.C.A. § 47-25-1701, *et seq.* (Verified Compl. ¶ 24); (ii) that Armbrust breached his “contractual obligations” (Verified Compl. ¶ 27); (iii) that both Armbrust and ESI engaged in intentional interference with Philotechnics’s business relationships with its other employees, using improper means to cause them to leave their employment (Verified Compl. ¶ 26); (iv) that Armbrust breached his common law and statutory duties of loyalty during his employment by using confidential and proprietary information to the benefit of ESI (Verified Compl. ¶ 23); and (v) that Armbrust and ESI engaged in a “civil conspiracy” with “either an unlawful purpose or a lawful purpose with unlawful means” (Verified Compl. ¶ 25).

5. On March 13, 2012, Philotechnics filed a Motion to Amend the Complaint. In the Motion to Amend, Philotechnics sought to join two additional defendants: Thomas O. Klett and Donald E. Hartje (“Hartje”), two former employees of Philotechnics. In addition, Philotechnics sought to add new legal claims against the Defendants.

6. On March 19, 2012, the Chancery Court for Loudon County granted Philotechnics’s Motion to Amend the Complaint. In the eight-count Amended Complaint, Philotechnics has alleged both state and federal causes of action. In Count I, Philotechnics

alleges that Defendants violated the UTSA, T.C.A. § 47-25-1701 *et seq.* (Amended Compl. ¶¶ 56-74). In Count II, Philotechnics alleges that Defendants Armbrust and Klett violated the Tennessee Personal and Commercial Computer Act, T.C.A. § 39-14-601 *et seq.* (Amended Compl. ¶¶ 75-81). In Count III, Philotechnics alleges that Defendants Armbrust and Klett violated the Federal Computer Fraud and Abuse Act, 18 U.S.C. § 1030 (Amended Compl. ¶¶ 82-86). In Count IV, Philotechnics alleges that Defendants intentionally interfered with Philotechnics's business relationships in violation of Tennessee law (Amended Compl. ¶¶ 87-95). In Count V, Philotechnics alleges that Defendants engaged in a civil conspiracy in violation of Tennessee law (Amended Compl. ¶¶ 96-102). In Count VI,<sup>1</sup> Philotechnics alleges that Defendants engaged in "unfair competition," in violation of Tennessee law (Amended Compl. ¶¶ 103-11). In Count VII,<sup>2</sup> Philotechnics alleges that Defendants Armbrust, Hartje, and Klett breached confidentiality agreements, in violation of Tennessee law (Amended Compl. ¶¶ 112-16). In Count VIII,<sup>3</sup> Philotechnics alleges that Defendants Armbrust, Hartje, and Klett breached their common law and statutory duties of loyalty (Amended Compl. ¶¶ 117-24).

7. As Philotechnics has asserted a federal cause of action under the Federal Computer Fraud and Abuse Act, 18 U.S.C. § 1030(g) (Amended Compl. ¶¶ 82-86), this Court has original subject matter jurisdiction pursuant to 28 U.S.C. § 1331, and removal is proper pursuant to 28 U.S.C. § 1441(a).

8. This Court also has supplemental jurisdiction over Plaintiff's remaining state law claims pursuant to 28 U.S.C. § 1337(a), as they are so related to the federal claims that they form

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<sup>1</sup> The Amended Complaint incorrectly refers to "Unfair Competition" as "Count VII," but it should have been denominated as "Count VI."

<sup>2</sup> The Amended Complaint incorrectly refers to "Breach of Contract" as "Count VIII," but it should have been denominated as "Count VII."

<sup>3</sup> The Amended Complaint incorrectly refers to "Breach of Fiduciary Duty of Loyalty," as "Count VII" but it should have been denominated as "Count VIII."

part of the same case or controversy under Article III of the United States Constitution. Removal is therefore proper pursuant to 28 U.S.C. § 1441(a).

9. Pursuant to 28 U.S.C. § 1446(b)(3), Defendants Armbrust and Klett have timely removed this action. Defendants Armbrust and Klett have filed this Notice of Removal within thirty days after receipt of a copy of the Amended Complaint. 28 U.S.C. § 1446(b)(3). On April 2, 2012, Defendant Klett received service of the Civil Summons and Amended Complaint in the State Court Action.

10. Pursuant to 28 U.S.C. § 1446(b)(2)(A), Defendants ESI and Hartje consent to the removal of this action.

11. Pursuant to 28 U.S.C. § 1446(a), attached hereto as **Exhibit A** are true and correct copies of all process, pleadings and orders served upon Defendants in the State Court Action. To Defendants' knowledge, no further proceedings have been conducted in the State Court Action.

12. Counsel verifies that the enclosed documents are true and correct copies of all pleadings and other documents filed in the State Court Action.

13. Defendants are providing written notice of the filing of this Notice of Removal to Philotechnics and are filing a copy of this Notice of Removal with the Clerk of the Chancery Court for the State of Tennessee in and for the County of Loudon, pursuant to 28 U.S.C. § 1446(d).

14. Defendants will promptly serve this Notice of Removal on Philotechnics.

**WHEREFORE**, Defendants Andrew J. Armbrust and Thomas O. Klett respectfully remove the above-entitled action from the Chancery Court for the State of Tennessee in and for the County of Loudon to the United States District Court for the Eastern District of Tennessee.

Respectfully submitted,

DATED: April 17, 2012

/s/ J. Ford Little

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*Attorneys for Defendants Ecology Services, Inc.,  
Andrew J. Armbrust, Thomas O. Klett, and  
Donald E. Hartje*

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing pleading has been served upon the following counsel for the parties in interest herein by delivering same to the offices of said counsel, or by mailing same to the offices of said counsel by United States Mail with sufficient postage thereon to carry the same to its destination.

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This the 17th day of April, 2012,

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